



## Land Development News

County of San Diego  
Department of Public Works  
June 2011

*Ed Sinsay, Project Manager, DPW Review Teams*

### **CEQA Public Review documents can be viewed online and used for reference**

Have you ever asked County staff for a copy of a recent technical study or an exhibit such as a Tentative Map or a Plot Plan to be used as an example to put together the DPW component of a discretionary submittal? These types of documents are available for review on the DPLU CEQA Public Review web page at [http://www.sdcountry.ca.gov/dplu/ceqa\\_public\\_review.html](http://www.sdcountry.ca.gov/dplu/ceqa_public_review.html).

According to the California Environmental Quality Act (CEQA), (Section 15200) "the purposes of public review of Environmental Impact Reports and Negative Declarations include; to share expertise, disclose agency analyses, check for accuracy, detect omissions, discover public concerns, and solicit counter proposals". When a discretionary project gets to the stage of public review, all documents have already been reviewed by staff and have been found to be complete and in compliance with regulatory ordinances and policies.

Keep in mind that discretionary projects posted online for public review are not approved and might be subject to revisions, but their environmental documents can be viewed by the public and used for future reference. The County keeps the documents posted for at least 30 days beyond the mandated public review period.

*John R. Thomas, Sr. Civil Engineer, DPW PDCI*

### **Construction of Guard Rails in County Right of Way**

On several occasions where guard rail has been constructed in the County's Right-of-Way in connection with private development projects, the adjacent curb has not been constructed in accordance with CALTRANS standards, which can result in significant expense to the developer for reconstruction.

Beneath road-side guard rails, where concrete or asphalt curbs are constructed, the curb height must be in compliance with the CALTRANS A-77 series of Standard Drawings, which can be found at <http://www.dot.ca.gov/hq/esc/oe/standards.php>.

In general, the curb must be a maximum of four (4) inches high beneath the guard rail main body and a maximum of two (2) inches high beneath the end treatment sections, to a point 25 feet ahead of and beyond termination of the end treatment sections.

We strongly recommend that plans be prepared in such a manner as to reflect varying curb heights and transitions in plan and profile views and, where curbs are staked for construction, provide additional staking to indicate the location of guard rails and limits of the depressed curbs and transitions.

Curb height variations may impact hydraulic performance of streets and cross-sectional design of parkways and walkways. The project engineer should evaluate these potential impacts during development of the plans as part of his/her responsible charge.



If you have questions on this issue, please contact a Private Development Construction Inspection representative at (858) 694-3165, or email at [grading@sdcounty.ca.gov](mailto:grading@sdcounty.ca.gov).

*Cid Tesoro, Program Manager, DPW Watershed Protection*

**Draft Guidance on Identifying Waters Protected by the Clean Water Act**

The US Environmental Protection Agency (EPA) has issued a “Draft Guidance on Identifying Waters Protected by the Clean Water Act” (Guidance). The draft Guidance is intended to clarify how the EPA and the U.S. Army Corps of Engineers (Corps) will identify waters protected by the Clean Water Act (CWA) and implement the Supreme Court’s decisions concerning the extent of waters covered by two Supreme Court cases; *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)* and *Rapanos v. United States (Rapanos)*. It is intended to provide guidance to agency field staff in making determinations about whether waters are protected by the CWA, i.e. whether the waters are jurisdictional. The draft Guidance is more than a guidance document. It essentially expands the definition of waters protected by the CWA. Although the document is a guide and not a change to the law, one could argue that state and federal agencies will treat this as law because they have been asking for guidance since the Supreme Court ruling (*Rapanos v. U.S.*, 2008) where no majority opinion was reached.

The Watershed Protection Program (WPP), in conjunction with other County departments with an interest in water quality, has reviewed the draft Guidance document and determined the potential impacts of this draft Guidance may include:

- *Proposed Jurisdiction:* The extent of proposed jurisdiction is ambiguous.
- *Subjective Terms:* Definitions provided in the draft Guidance are subjective and ultimately to the interpretation of the regulator.
- *Interpretation of Guidelines:* Differing interpretations resulting in inconsistent application of the draft Guidelines.
- *Increased Time and Costs:* Potential for increased time and costs associated with making determinations related to development projects, processing development projects, and appropriate environmental review.
- *Identifying International Waters:* not currently defined in the draft Guidelines
- *Undefined floodplain:* No floodplain is defined for establishing determination (i.e.: 100-year).
- *Maintenance:* Maintenance of BMPs such as ditches, detention and retention basins, which may be subject to jurisdiction under the draft Guidance.

Other issues, specific to individual departments, include clarification of specific terms (i.e.: “relatively permanent” as it applies to erosional features), impacts to agricultural lands where processes are undefined (i.e.: watering specific crops), clarification on impacts to Vernal Pools to list a few.

County staff has contacted appropriate industry groups (i.e.: BIA) to coordinate on the draft Guidance. WPP staff is in the process of preparing a response to the draft Guidance, which will be submitted by July 1, 2011.

If you have comments or need additional information, please contact Cid Tesoro, Flood Control District Manager, at (858) 694-3672, or email at [Cid.Tesoro@sdcounty.ca.gov](mailto:Cid.Tesoro@sdcounty.ca.gov).



*Terry Connors, DPW County Surveyor*

**Corner Records – Witnessed Construction vs. Lost Replacement**

**Q:** *“What is the difference between Witnessed Construction and Lost Replacement when it comes to filing Corner Records?”*

**A:** First we must understand that a corner record is filed in the Office of the County Surveyor for three (3) primary reasons; 1) for each public land survey corner which is found, reset, or used as control in any survey by a land surveyor, 2) for existing monuments in jeopardy of being lost during construction that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide horizontal or vertical survey control, and 3) when conducting a survey which is a retracement of lines shown on a subdivision map, official map, or a record of survey, where no material discrepancies with those records are found and where sufficient monumentation is found to establish the precise location of property corners thereon.

Under item #2, above – Construction Perpetuation. There is a huge difference in the reporting process depending on how the monuments were removed. There are typically three (3) scenarios that are prevalent in these situations.

- a. If the monuments were *witnessed* by the reporting surveyor immediately prior to their destruction, one would expect the corner record to show local offsets (strap-ties, simple transit surveys, etc.) used to reference the location of the monument prior to its demise. This is an easy and rather straight forward process.
- b. If the monuments were *witnessed* by the reporting surveyor at some point in time prior to their destruction (say years ago while surveying a neighborhood property), one would expect the corner record to show the monument being reset in a position ascertainable from *his* prior filings (i.e. corner records, records of surveys, final or parcel maps) or in limited situations, from *his* field notes.
- c. If the monuments were *not witnessed* by the reporting surveyor, the corner record should provide the replacement similar to any other property survey of this type stating the method used to recreate the position and using “sufficient monumentation is found to establish the precise location” (State Board Rule 464(e)).

If you have any questions on the process for correcting previously filed corner records, please contact Terry Connors at (858) 694-3869, or email at [Terry.Connors@sdcounty.ca.gov](mailto:Terry.Connors@sdcounty.ca.gov).